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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,054	04/01/2008	Christopher J Soares	0105US-U/TL2	5466

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Intellectual Property Department  
Amylin Pharmaceuticals, Inc.  
9360 Towne Centre Drive  
San Diego, CA 92121



EXAMINER
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HOWARD, ZACHARY C

ART UNIT	PAPER NUMBER
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1646

NOTIFICATION DATE	DELIVERY MODE
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02/11/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./CONTROL NO. 10589054	FILING DATE 4/1/08	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION SOARES ET AL.	ATTORNEY DOCKET NO. 0105US-UTL2
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EXAMINER  
ZACHARY C. HOWARDART UNIT  
1646  
PAPER  
20110204

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Commissioner of Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825).

The 5/12/10 Office Action, at pg 2-3 contained a section titled "Sequence Compliance" that indicated lack of sequence compliance for the following reasons:

"Specifically, "formula I" in claim 5, and in the specification at ¶ [0087] (as published), is identified as SEQ ID NO: 34, but does not match SEQ ID NO: 34 in the Sequence Listing (filed 6/19/08). Specifically, in SEQ ID NO: 34, residues 2 and 7 are identified as "any amino or not present", but in "formula I", residues 2 and 7 are only identified as "X" and "Y".

Applicants' 11/16/10 amendments to the claims, once entered, will render this moot with respect to claim 5 (which is indicated as being canceled). However, SEQ ID NO: 34 in the Sequence Listing still does not match SEQ ID NO: 34 as shown in the specification at page 5, as described above.

In the 11/16/10 response, Applicants argue that the present sequence listing does comply with the sequence rules.

Applicants argue that X and Y are not amino acids and thus SEQ ID NO: 34 cannot identify residues 2 and 7 as X and Y, respectively. Applicants argue that the specification at paragraph 90, 109 and 139 indicates that residue 2 (X) and 7 (Y) can be any amino acid.

Applicants' arguments have been fully considered and are found persuasive in part. Paragraphs 109 and 139 of the specification teach X and Y residues that are specific to other sequences (e.g., SEQ ID NO: 5) and do not refer to SEQ ID NO: 34. Only paragraph 90 describes the X and Y for SEQ ID NO: 34. However, it is found persuasive that "Any amino acid" as used in the Sequence Listing is sufficient to describe X and Y of SEQ ID NO: 34 of the specification, in view of the teachings of paragraph 90. However, nowhere does paragraph 90 (or anywhere else in the specification) indicate that X and Y of SEQ ID NO: 34 can be "not present". Thus, the Sequence Listing must be amended to remove "or not present" from residues 2 and 7 of SEQ ID NO: 34.

APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

The addresses below are effective 5 June 2004. Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Web (<<http://www.uspto.gov/efc/efs/downloads/documents.htm>>, EFS Submission User Manual - ePAVE)

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Any inquiry concerning this communication should be directed to Zachary C. Howard at telephone number (571)272-2877. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary B. Nickol, can be reached on (571)272-0835

/Bridget E Bunner/  
Primary Examiner, Art Unit 1647